

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARY LA BARBERA, et al.,

MEMORANDUM AND ORDER

Plaintiff,

-against-

PI TRUCKING CORP.,

Defendant.
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FILED
IN CLERK'S OFFICE (J.)
U.S. DISTRICT COURT E.D.N.Y.
★ SEP 27 2012 ★
LONG ISLAND OFFICE

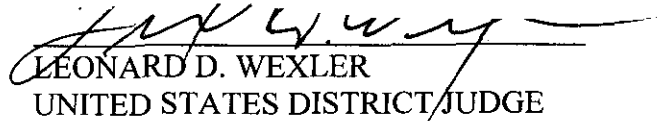
WEXLER, District Judge:

This action was commenced in 2007 to collect certain contributions owed by Defendant to funds administered by Plaintiff. Judgment was entered against the Defendant corporation in 2008 in the amount of \$152,041.62. On December 30, 2009, in furtherance of enforcement of the judgment, Plaintiff served Kenneth Pellegrino, Defendant's registered agent ("Pellegrino"), with a subpoena. That subpoena was improperly served, and, pursuant to rulings and instructions by Magistrate Judge Lindsay, Plaintiff submitted a new subpoena to the court. That subpoena was "so ordered" by the Magistrate Judge on February 15, 2011, and was served on Pellegrino on March 4, 2011. Pellegrino failed to properly respond to the subpoena. Thereafter, Plaintiff moved before the Magistrate Judge to hold Pellegrino in contempt.

Presently before the court is a Report and Recommendation ("R&R") of Magistrate Judge Lindsay recommending that Pellegrino be required to appear before this court on a date certain to show cause why he should not be adjudged in contempt of Rule 45. The time to file objections having passed without receipt of any objections, the R&R is hereby adopted. Accordingly, the

court adopts the R&R, grants the motion for an order of contempt, and orders counsel and Pellegrino to appear before this court on Tuesday October 23, 2012 at 10:30 A.M. The Clerk of the Court is directed to terminate the motions appearing at docket entries 20 and 24 and to maintain the closed status of this case.

SO ORDERED


LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
September 27, 2012